

8 October 1952

MEMORANDUM FOR: The Director of Central Intelligence

SUBJECT: Refusal by Executive to Provide Information to Congress

1. The President and the heads of executive departments have on many occasions refused, for reasons of public interest, to furnish information requested by Congress or Congressional committees.

2. In no case has either House of Congress taken steps to compel compliance after the executive has refused to furnish information in response to a subpoena or a resolution of either House as there has been no effective remedy for such refusal.

3. This stems from the fundamental doctrine of the separation of powers among the three branches of Government. The Constitution lodges the executive power in the President. The authority of each head of a department is part and parcel of the executive power of the President. To coerce the head of a department is to coerce the President. It follows that Congress cannot, under the Constitution, compel heads of departments to make public what the President desires to keep secret in the public interest. The President alone is the judge of that interest and is accountable only to the country in his political character and to his own conscience. Consequently, determinations of the heads of departments in this respect obviously must be consistent with Presidential policy.

4. The executive's position is by history and precedent particularly strong where secrets of state are involved, since the conduct of foreign relations is a constitutional prerogative of the President. Further, Congress, itself, holds the Director of Central Intelligence responsible for protection of intelligence sources and methods from unauthorized disclosure.

5. Determinations to refuse testimony may be qualified by agreements with appropriate Congressional committees to limit questioning or to hold hearings in executive session. Congressional inquiries on loyalty cases are subject to special Presidential restrictions requiring reference to the White House.

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LAWRENCE R. HOUSTON
General Counsel

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DATE: 10 October 1952

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MEMORANDUM FOR THE DIRECTOR:

Probable questions or types of question the Un-American Activities Committee may ask, judging from recent U. S. press reports on CIA:

1. What do you mean by a Communist--what is your definition?
2. Explain your statement at the pre-trial Benton-McCarthy hearing that you agreed with Senator Benton's statement, "I know there was Communists in the State Department," and your further statement, "I believe there are Communists in my own organization."
3. What is the factual basis for your testimony: "I believe that they are so adroit and adept that they have infiltrated practically every security organization of the Government in one way or another."
4. As Director of CIA, don't you believe you should have familiarized yourself with the June 10, 1947 report of a Senate sub-committee on Appropriations?

*Answer
To #4*

The State Appropriations Subcommittee of the Senate Appropriations Committee forwarded to the Secretary of State a confidential report expressing its concern about subversives in the Department and, to the best of my knowledge, also named specific names for the Secretary's consideration. Insofar as is known this report has never been made public.

7. Do you understand that Executive Order 9835, issued March 21, 1947, authorizes CIA and its Director to withhold information from Congressional investigating committees?
8. Does the above referred to order together with Executive Order 10290, September 24, 1951, actually work to protect subversives and in the Davies case prevent determination as to whether perjury was committed?
9. How many CIA employees have been discharged for the best interests of the United States before you became Director and after you became Director?
10. How many of these were Communists or fellow-travellers?

11. A [] former employee of CIA, now an employee of [] has gone to the Times-Herald in Washington, D. C., and declared that he informed his immediate CIA superior and another CIA official of what he termed "pro-Chinese Communist" views of another CIA worker--and the other alleged "pro-Chinese Communist" is still with CIA. Was a thorough investigation made of this case within the CIA?

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STANLEY J. GROGAN

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- 25X1 5. Did John P. Davies, a State Department official, recommend that CIA employ the following people: 25X1
6. Do you believe that CIA or any other Government agency may be permitted to be sacrosanct and not subject to Congressional scrutiny in regard to America's national security?
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